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## REVIEWS OF BOOKS

*Historical Jurisprudence: An Introduction to the Systematic Study of the Development of Law.* By GUY CARLETON LEE, Ph.D.  
(New York: The Macmillan Co. 1900. Pp. xv, 517.)

THIS is an interesting book and a good book. It is scholarly in treatment and useful in its material; it shows the marks of broad and thorough study of the subject, and is clearly arranged and perspicuously written. It should prove a useful elementary text-book for the study of Roman law or of early English institutions.

The book is so good that one feels rather provoked with Dr. Lee for not attempting less and making it better. He has collected here facts about many systems of law, from that of old Babylon to that of contemporary Germany. He has tried to indicate the relation between these systems, and the growth of legal conceptions from the primitive notions of barbarians to modern times. That these great tasks cannot be satisfactorily accomplished in one small volume is obvious. That Dr. Lee has failed to accomplish them does not prove his work ill-done; it proves his plan unduly ambitious.

In the Introduction Dr. Lee has stated his purpose to "trace through all the tangled mazes which separate the two, the line of connection between the modern and the primitive conceptions of law;" "to discover the first emergence of those legal conceptions which have become a part of the world's common store of law, to show the conditions that gave rise to them, to trace their spread and development, and to point out those conditions and influences which modified them in the varying course of their existence." "Laws are . . . easily transplanted from one nation to another by the simple intercourse of commercial life;" "this exchange of legal conceptions, and often of actual laws, is part of the subject of Historical Jurisprudence; and by it is established the postulate of jurisprudence, that there is an abstract and universal science of right and justice to which all local and temporary systems conform, and from which they derive much of their law." "It is the duty of Historical Jurisprudence not merely to point out the contribution which each nation and race has made to the common product, but also to show how and why the law of one nation has been adopted by another." The book is divided into Part I., Foundations of law; Part II., The development of Jurisprudence; Part III., Beginnings of modern Jurisprudence. This division conforms entirely to Dr. Lee's purpose as expressed in the Introduction. Let us see how well the execution suits the plan.

Part I. deals with the laws of several ancient states : Babylon, Egypt, Phœnicia, Israel, India and Greece. In each case after a few words about the history of the country, there is a summary of portions of its law, and in one or two cases a brief statement of the influence of the law upon other systems. The discussion of the law is too short to do more than indicate the nature of the system. To put the whole law of India into thirty pages, for instance, is like drawing a completed landscape in thirty lines. All the fine discriminations, all the peculiar conceptions, all the individual atmosphere, in short, is lacking ; and it is this peculiar atmosphere of the law which for the purpose of comparative study is of most importance. The few pages which Dr. Lee devotes to a discussion of the influence of these systems upon more modern systems of law form the most suggestive and valuable portion of this part of the book. In a few pages we are told that the Babylonian law passed to the Phœnicians, and although we are warned that we have "No direct knowledge of Phœnician law" we are informed that through the Phœnicians the Babylonian law was carried to Greece and to Rome. The dogmatic method of Dr. Lee's discussion and the lack of constant reference to authorities detract from the value of these suggestions ; but such as they are, they seem to constitute the sole reason for being of Part I.

"The Development of Jurisprudence" is almost entirely devoted to a very good discussion of the history of the Roman law. In this portion of his work Dr. Lee appears to have combined the results of the best modern scholarship with his own study and thought. He states clearly, and with sufficient fullness for his purpose, the beginnings, the development, and the content of Roman law and its final codification in the *Corpus Juris*. This is followed by a brief but luminous description of the origin and growth of the canon law and a quite inadequate one of the barbarian codes.

"The Beginnings of modern Jurisprudence" is less satisfactory because it is more fragmentary. Dr. Lee has here traced the renewal of interest in the Roman law from the thirteenth century, and its reception in the modern European states. Here, if anywhere, was his opportunity to fulfill the promises of his preface. The Roman law, gradually permeating the Gothic jurisprudence of Spain, has been carried into the western and the eastern world ; the Roman-Dutch law, planted in the colonies of the Netherlands, absorbed into the English empire, has reacted strongly on English law and colonial institutions ; and in our own time Egypt and Japan attest the debt of the modern world to Papinian. Dr. Lee, however, passes all this by and instead of it gives a rather full sketch of the reception of the Roman law into Germany and France. The last chapter in the book is devoted to a history of English law to the time of Bracton ; the ground, in fact, covered by Pollock and Maitland. In forty pages Dr. Lee cannot hope to do much with a subject illuminated by the two large volumes of these authorities ; but, as was to be expected from him, he has given an enlightened, though brief, statement of the main points in the early history of English law.

Such is the scope of Dr. Lee's book, and it must be apparent that in it he has not borne out the promise of his preface. The bulk of the volume is legal history, pure and simple, and much the greater part, history of Roman law. Of Historical Jurisprudence (if such a thing exists) we find little outside the Introduction. We do find a useful elementary history of most of the systems of law that can interest us, presented clearly and judiciously.

JOSEPH H. BEALE, JR.

*The History of Colonization, from the Earliest Times to the Present Day.* By HENRY C. MORRIS. (New York and London: The Macmillan Co. 1900. Two vols., pp. xxiv, 459; xiii, 383.)

THIS book, the author says, owes its origin to "a natural interest in the affairs of the day." The recent war with Spain, leading to the acquisition of distant dependencies by the United States, interested Mr. Morris in colonial problems, and he sought in the history of colonization answers to the questions that the present position of our country stimulates. He found that many books had been written on colonies, but that "almost all are devoted to certain special phases, epochs, or fields of research, are written from the standpoint of some one nation, or are too technical to be available and interesting to the majority of readers." To fill the want implied, of a treatise on colonization covering the whole field and suited to the comprehension of the general public, this book was prepared. The introduction promises to the reader a discussion of the different types of colonies and of the conditions necessary to their success, and an exposition of the facts of their history that will show how the principles of colonial policy have been developed.

The task that Mr. Morris sets before himself is a difficult one. Most books on colonization confine themselves to some part of the field simply because colonies have differed so much in different periods, or under different conditions in the same period, that they do not lend themselves to the generalizations of the philosophic historian, and resist inclusion in a single book. A writer who would give us what Mr. Morris promises must be not only conversant with a very broad range of facts, but also endowed with a critical and constructive ability enabling him to use the facts with the utmost efficiency. Extensive reading and thorough training are the two requisites. The author of this book cannot be credited with a satisfactory measure of either.

In the preliminary chapter, on general principles, Mr. Morris shows such confusion of ideas as to destroy at once any hope that he can advance our knowledge of the theory of colonization. The reader is forced to doubt whether the author understands what has already been written on the subject, and whether he is competent even to compile the results of others' investigations. In a book of this kind the matter of classification is of primary importance, if we are to learn anything of the principles of colonization. But even in proposing a scheme of classification,